IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2879 OF 2005

Naresh Namdeo Sawant & anr. ... Applicants

versus

The State of Maharashtra ... Respondent

...

Mr.S.P. Kadam, for the Applicants.

Mr.K.V.Saste, A.P.P.,for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

3rd May 2005

P.C.:

. Heard Counsel for the parties Perused the record. Indeed, the offence in question is a serious offence. However, the only evidence to indicate the complicity of the Applicants is that they were seen going out of the burial ground along with the deceased in a rickshaw with Dr.Rahul Palshetkar. In addition to this circumstance, learned A.P.P. relies on the

recovery of razor at the instance of Applicant No.1. It is seen that the incident in question took place on 25th June 2004, whereas the deceased was found near the railway track on 27th June 2004. For the time gap between the incident and the body recovered near the Railway track, no explanation is forthcoming. The recovery of razor, by itself, or last seen together does not take the matter further as that cannot be the conclusive basis to record finding of guilt against the Applicants. This, of course, is a prima facie view expressed at the stage of considering prayer for bail. Dr. Palshetkar, who was also last seen together along with the Applicants in the company of the deceased, has already been granted by this Court vide order dated December 15, 2004. The only additional reason as against the Applicant No.1 is recovery of razor. As mentioned earlier, that by itself, cannot be sufficient to explain the gap between the date of incident and the body recovered near the railway track. Viewed in this perspective, the Applicants are also entitled for bail on the same conditions on which co-accused Dr. Palshetkar was released on bail, which are as

follows.

(A) The Applicants are enlarged on bail in connection with CR.No.I-92 of 2004 registered with Vishnu Nagar Police Station, Dombivli (W), on executing personal bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) each with two local sureties in the like amuont.

(B) The Applicants shall report to the concerned police station once in a month during the pendency of the trial on first Saturday of every English calendar month between 10 a.m. to 12 p.m.

(C) The Applicants shall extend full co-operation for early disposal of the trial. If the trial Court is of the opinion that the Applicants are responsible for delay in disposal of the trial, that fact may be recorded by the trial Court in the roznama, which will be a ground for cancellation of the bail granted to the Applicants.

(D) The Applicants shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(E) The Applicants shall not leave the jurisdiction of Dombivali Police Station without prior intimation to the investigating officer as well as to the trial Court.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)